

# House File 667 - Introduced

HOUSE FILE \_\_\_\_\_  
BY ALONS, MAY, DRAKE, and  
RAYHONS

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the citation of health care facilities under  
2 state and federal law, and providing effective and retroactive  
3 applicability dates.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2048YH 83  
6 jr/nh/5

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1 1 Section 1. Section 135C.36, Code 2009, is amended to read  
1 2 as follows:  
1 3 135C.36 VIOLATIONS CLASSIFIED == PENALTIES.  
1 4 1. Every violation by a health care facility of any  
1 5 provision of this chapter or of the rules adopted pursuant to  
1 6 it shall be classified by the department in accordance with  
1 7 this section. The department shall adopt and may from time to  
1 8 time modify, in accordance with chapter 17A rules setting  
1 9 forth so far as feasible the specific violations included in  
1 10 each classification and stating criteria for the  
1 11 classification of any violation not so listed.  
1 12 ~~1.~~ a. A Class I violation is one which presents an  
1 13 imminent danger or a substantial probability of resultant  
1 14 death or physical harm to the residents of the facility in  
1 15 which the violation occurs. A physical condition or one or  
1 16 more practices in a facility may constitute a Class I  
1 17 violation. A Class I violation shall be abated or eliminated  
1 18 immediately unless the department determines that a stated  
1 19 period of time, specified in the citation issued under section  
1 20 135C.40, is required to correct the violation. A licensee is  
1 21 subject to a penalty of not less than two thousand nor more  
1 22 than ten thousand dollars for each Class I violation for which  
1 23 the licensee's facility is cited.  
1 24 ~~2.~~ b. A Class II violation is one which has a direct or  
1 25 immediate relationship to the health, safety or security of  
1 26 residents of a health care facility, but which presents no  
1 27 imminent danger nor substantial probability of death or  
1 28 physical harm to them. A physical condition or one or more  
1 29 practices within a facility, including either physical abuse  
1 30 of any resident or failure to treat any resident with  
1 31 consideration, respect and full recognition of the resident's  
1 32 dignity and individuality, in violation of a specific rule  
1 33 adopted by the department, may constitute a Class II  
1 34 violation. A violation of section 135C.14, subsection 8, or  
1 35 section 135C.31 and rules adopted under those sections shall  
2 1 be at least a Class II violation and may be a Class I  
2 2 violation. A Class II violation shall be corrected within a  
2 3 stated period of time determined by the department and  
2 4 specified in the citation issued under section 135C.40. The  
2 5 stated period of time specified in the citation may  
2 6 subsequently be modified by the department for good cause  
2 7 shown. A licensee is subject to a penalty of not less than  
2 8 one hundred nor more than five hundred dollars for each Class  
2 9 II violation for which the licensee's facility is cited,  
2 10 however the director may waive the penalty if the violation is  
2 11 corrected within the time specified in the citation.  
2 12 ~~3.~~ c. A Class III violation is any violation of this  
2 13 chapter or of the rules adopted pursuant to it which violation  
2 14 is not classified in the department's rules nor classifiable  
2 15 under the criteria stated in those rules as a Class I or a  
2 16 Class II violation. A licensee shall not be subject to a  
2 17 penalty for a Class III violation, except as provided by  
2 18 section 135C.40, subsection 1 for failure to correct the

2 19 violation within a reasonable time specified by the department  
2 20 in the notice of the violation.

2 21 2. If an act by or omission of a health care facility  
2 22 constitutes a violation of this chapter, the rules adopted  
2 23 under this chapter, or a federal requirement related to the  
2 24 operation of a health care facility, the department shall not  
2 25 issue a statement of deficiency or citation based on the state  
2 26 law or rules if the department has issued a statement of  
2 27 deficiency or citation for the same or a similar violation  
2 28 under the federal requirements related to the operation of a  
2 29 health care facility.

2 30 3. The department shall not issue a statement of  
2 31 deficiency or citation based on state law or rules if federal  
2 32 regulators have declined to approve or accept a statement of  
2 33 deficiency or citation for the same or a similar violation  
2 34 under the federal requirements relating to the operation of a  
2 35 health care facility.

3 1 Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

3 2 1. This Act, being deemed of immediate importance, takes  
3 3 effect upon enactment.

3 4 2. This Act is retroactively applicable to October 1,  
3 5 2008, and is applicable on and after that date.

3 6 EXPLANATION

3 7 Both state and federal law have provisions for the issuance  
3 8 of citations to health care facilities for violations of state  
3 9 or federal law. This bill provides that the department of  
3 10 inspections and appeals may not issue a statement of  
3 11 deficiency or a citation under Iowa law if the department has  
3 12 already issued a statement of deficiency or a citation to the  
3 13 facility for a violation under the federal requirements. The  
3 14 bill also prohibits the department from issuing a statement of  
3 15 deficiency or citation based on state law if federal  
3 16 regulators have declined to approve or accept a statement or  
3 17 citation for the same or similar violation.

3 18 The bill takes effect upon enactment and is retroactively  
3 19 applicable to October 1, 2008.

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3 21 jr/nh/5.1